

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**Dmitry Yarushkin & Yang Yang,**  
Petitioner-Appellants,

v.

**Dallas County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 10-25-0610**  
**Parcel No. 16-13-227-001**

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On May 18, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellants, Dmitry Yarushkin and Yang Yang, were self-represented and submitted evidence in support of their petition. The Dallas County Board of Review designated County Attorney Wayne M. Reisetter as its legal representative. Steve Helm, Dallas County Assessor, represented the Board of Review at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

Dmitry Yarushkin and Yang Yang, owners of residential property located at 116 S 62nd Street, West Des Moines, Iowa, appeal from the Dallas County Board of Review decision reassessing their property. The real estate was classified residential for January 1, 2010, assessment and valued at \$358,140, representing \$68,430 in land value and \$289,710 in dwelling value. This was a change from the previous year's assessment.

Yarushkin and Yang protested to the Board of Review on the grounds that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b); and that there is an error in the assessment under section 441.37(1)(d). In response to the protest, the Board of Review

notified Yarushkin and Yang the January 1, 2010, assessment would not change stating, "Owners failed to substantiate burden of proof."

Yarushkin and Yang then appealed to this Board on the same grounds. We note in a letter submitted to both Boards, Yarushkin and Yang error claim is really a claim of over-assessment. Yarushkin and Yang value the property at \$308,274. They ask \$49,866 in relief.

According to the property record card, the subject property is a two-story, frame dwelling having 2849 total square feet of living area and an attached, 802 square-foot garage. The dwelling was built in 2004 and has a 2-5 quality grade. It is situated on a 0.341 acre site.

Yarushkin testified that he and his wife purchased the property in February 2009, for \$320,000. Yarushkin is of the opinion that even though he purchased the property from a bank, the sale was fair market value as the property was listed by a realtor and exposed to the market. Yarushkin stated that Larry Stone from the assessor's office walked through the property in early 2009 and determined the January 1, 2009, assessment was \$302,703. Between February and December of 2009, he made repairs to the subject property in the amount of \$10,995. He testified these repairs were done by private contractors. However, they did save some cost by taking up the old carpet themselves. The repair included the following:

- Wood flooring – \$8198
- Paint interior room – \$2006
- Replace two panels of siding – \$275
- Paint fence – \$480.

He included receipts for the repairs. We note the majority of those repairs were replacement or upkeep of the existing structure.

Yarushkin took the 2009 building value of \$234,300 and added the amount of repairs, \$10,995, to arrive at a building value of \$245,295 for the building; he then determined a total assessment of \$313,662 by adding in the land value.

Yarushkin also estimated the assessed value based on the replacement cost from his insurance company of \$236,000 for the dwelling only. He provided a copy of his policy value. He then added the 2009 assessed value for the land to this replacement cost figure to arrive at a total value of \$304,430.

Finally, Yarushkin submitted three sales of properties he considered comparable to his, which were provided to him by his realtor Don Whitham of Your Choice Realty. Yarushkin noted sales data was very limited because there were few recent sales of highly similar properties in the neighborhood. He also noted the sales were all normal transactions. The properties sold between May 2009 and April 2010. The properties range in total living area from 2696 to 3257 square feet and were built between 1995 and 2008. Although there are differences in the properties, it appears they reasonably bracket the subject property, as Yarushkin asserts; however, there were no adjustments made to the properties to account for some of the more important differences such as the year built. The most comparable property appears to be the property located at 7127 Reed Lane. Yarushkin determined an average price of \$107.64 per square foot from the properties. Using the assessor's square foot of 2849 square feet he determined an assessed value of \$306,666.

Yarushkin took the average of his three values 1) the repairs plus purchase price of \$313,662, 2) the replacement cost plus assessed value of land at \$304,430, and 3) the comparable sales per square-foot price of \$306,666, and determined a value of the subject property of \$308,253.

The Board of Review did not testify or present additional evidence. It relied on the certified record.

Reviewing all the evidence we find the preponderance of evidence supports the claim that the property is over-assessed. While there are problems with the methods and although the original purchase price in February 2009 may not have been an arms-length transaction since the sale was from a bank, the evidence presented by Yarushkin and the 2009 assessed value of \$302,703, which was set

subsequent to the purchase price of \$320,000, indicate the property is currently over assessed. We note the 2009 assessment indicated the sale was not unreasonably low, particularly given the fact that it was from a bank and assessments are supposed to be 100% of market value under the law. We determine the most accurate reflection of market value for the 2010 assessment is the purchase price plus the improvements, which were done by contractors. We also note that even though the repairs may not add back dollar-for-dollar market value, adding this figure to the sale price should account for any possible distortion to the sale price as a bank sale. This value also reasonably coincides with the most comparable sale Yarushkin presented. Therefore, we determine the January 1, 2010, assessment to be \$330,995; representing \$68,430 in land value and \$262,565 in dwelling value.

### ***Conclusion of Law***

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or

comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).


In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The appellants have proved that the property is over-assessed based on the evidence in the record.

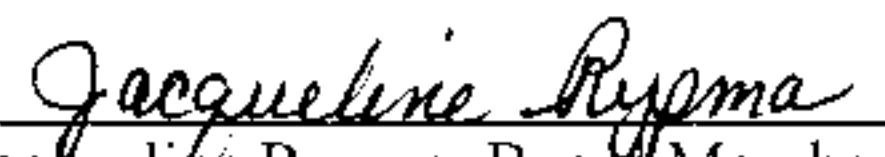
We, therefore, modify the Yarushkin and Yang property assessment as determined by the Board of Review.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the Dallas County Board of Review is modified to \$330,995, representing \$68,430 in land value and \$262,565 in dwelling value.

The Secretary of the State of Iowa Property Assessment appeal Board shall mail a copy of this Order to the Dallas County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 28 day of June 2011.

  
Richard Stradley, Presiding Officer

  
Jacqueline Rypma, Board Member

Copies to:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-28</u> , 201 <u>1</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	<input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> None
